



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0013(a); FRL-9732-7]

Approval and Promulgation of Implementation Plans;

North Carolina: Approval of Rocky Mount Motor Vehicle Emissions Budget Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the North Carolina State Implementation Plan (SIP), submitted to EPA on February 7, 2011, by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Air Quality (DAQ). North Carolina's February 7, 2011, submission supplements the original redesignation request and maintenance plan for the Rocky Mount, North Carolina 1997 8-hour ozone area submitted on June 19, 2006, and approved by EPA on November 6, 2006. The Rocky Mount, North Carolina 1997 8-hour ozone area is comprised of Edgecombe and Nash Counties in North Carolina. North Carolina's February 7, 2011, SIP revision increases the safety margin allocated to motor vehicle emissions budgets (MVEBs) for both Edgecombe and Nash Counties to account for changes in the emissions model and vehicle miles traveled (VMT) projection model. EPA is approving this SIP revision pursuant to section 110 of the Clean Air Act (CAA or Act). North Carolina's February 7, 2011, SIP revision meets all of the statutory and regulatory requirements, and is consistent with EPA's guidance.

DATES: This rule is effective on [Insert date 60 days from date of publication in the Federal Register] without further notice, unless EPA receives relevant adverse comment by [Insert date 30 days from date of publication in the Federal Register]. If EPA receives such comment, EPA will publish a timely withdrawal in the Federal Register informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0013 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-RDS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: EPA-R04-OAR-2012-0013, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2012-0013. EPA's policy is that all comments received will be included in the public docket without change and

may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and

Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Zuri Farngalo may be reached by phone at (404) 562-9152 or by electronic mail address farngalo.zuri@epa.gov.

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I. Background

The Rocky Mount, North Carolina 1997 8-hour ozone attainment and maintenance area is comprised of two counties – Edgecombe and Nash (hereafter referred to as the “Rocky Mount Area” or “Area”). In accordance with the CAA, the Rocky Mount Area was designated

nonattainment for the 1997 8-hour ozone national ambient air quality standards (NAAQS) on April 30, 2004, with an effective date of June 15, 2004. *See* 69 FR 23858.

On June 19, 2006, the State of North Carolina, through NCDENR, submitted a final request for EPA to: (1) redesignate the Rocky Mount Area to attainment; and (2) approve a North Carolina SIP revision containing a maintenance plan for Rocky Mount, North Carolina. On November 6, 2006, EPA approved the redesignation request for the Rocky Mount Area. Additionally, EPA approved the 1997 8-hour ozone maintenance plan (including MVEBs for Edgecombe and Nash Counties) for the Rocky Mount Area. 71 FR 64891. These approvals were based on EPA's determination that the State of North Carolina had demonstrated that the Rocky Mount Area met the criteria for redesignation to attainment specified in the CAA, including the determination that the entire Rocky Mount Area had attained the 1997 8-hour ozone NAAQS.

In the November 6, 2006, final rulemaking, EPA also found adequate and approved MVEBs for Edgecombe and Nash Counties in the Rocky Mount Area. Specifically, EPA found adequate and approved the 2008 and 2017 MVEBs for nitrogen oxides (NO_x) (for both Edgecombe and Nash Counties) that were contained in the 1997 8-hour ozone maintenance plan for the Rocky Mount Area.¹ Further, in the November 6, 2006, action, EPA found adequate and approved the insignificance determination for volatile organic compound (VOC) contribution from motor vehicle emissions to the 1997 8-hour ozone pollution in the Rocky Mount Area.

On February 7, 2011, North Carolina provided a SIP revision (the subject of this action) to increase the amount of safety margins allocated to the NO_x MVEBs to account for changes in

¹ North Carolina established subarea MVEBs at the county level so each county must consider its individual subarea MVEBs for the purposes of implementing transportation conformity.

the projection models. Section II provides EPA's analysis of North Carolina's February 7, 2011, SIP revision.

II. EPA's Analysis of North Carolina's SIP Revision

As discussed above, on February 7, 2011, the State of North Carolina, through NCDENR, submitted a SIP revision to revise the MVEBs for Edgecombe and Nash Counties in the Rocky Mount Area to account for the new emissions model, VMT projection models, and other emission model input data. The MVEBs (expressed in tons per day (tpd) and kilograms per day (kg/d)) that are being updated through today's action were originally approved by EPA on November 6, 2006, and are outlined in the table below.

Table 1 – Original MVEBs for NO_x

	2008		2017	
Edgecombe County	8.05 tpd	7,302.8 kg/d	6.00 tpd	5,443.1 kg/d
Nash County	13.32 tpd	12,083.7 kg/d	7.41 tpd	6,722.2 kg/d

DAQ is currently allocating portions of the available safety margin² to the MVEBs to account for new emissions models, VMT projections models, as well as changes to future vehicle mix assumptions, that influence the emission estimations. DAQ decided to allocate a majority of the safety margin available to the MVEBs. For 2017, DAQ estimated the amount needed to account for the current emission model and VMT projections model, and then added an additional 21 percent to account for any future changes to the emission model, projection model and other input data.

² A safety margin is the difference between the attainment level of emissions from all source categories (i.e., point, area, and mobile) and the projected level of emissions from all source categories. The State may choose to allocate some of the safety margin to the MVEB, for transportation conformity purposes, so long as the total level of emissions from all source categories remains equal to or less than the attainment level of emissions.

At this time, North Carolina is seeking to adjust the safety margins. The following tables provide the adjusted NOx emissions data, in kg/d for the 2008 base attainment year inventories, as well as the projected NOx emissions inventory 2017.

Table 2 – Edgecombe County MVEBs (kg/d)

	2008	2017
NOx Emissions		
Base Emissions	2,483	1,143
Safety Margin Allocated to MVEB	1,674	1,108
NOx Conformity MVEB	4,157	2,251

Table 3 – Nash County MVEBs (kg/d)

	2008	2017
NOx Emissions		
Base Emissions	8,790	3,767
Safety Margin Allocated to MVEB	1,655	2,374
NOx Conformity MVEB	10,444	6,141

A total of 3,329 kg (3.67 tons) and 3,482 kg (3.84 tons) of 2008 and 2017 NOx safety margin, respectively, were added to the MVEBs for the Rocky Mount Area. Taking into consideration the portion of the safety margin applied to the MVEBs, the resulting difference between the attainment level of emissions from all sources and the projected level of emissions from all sources in the maintenance area, i.e., the new safety margins, for each projected year is listed.

Table 4 – New Safety Margins for the Rocky Mount Area

Year	VOC tpd	NOx tpd
2005	N/A	N/A
2008	-0.59	0.0
2011	-0.51	-6.93
2014	-0.07	-9.77
2017	-0.07	-7.79

As shown in Tables 2 and 3 above, the Rocky Mount Area is projected to steadily decrease its total VOC and NOx emissions from the base year of 2008 to the maintenance year of 2017. This VOC and NOx emission decrease demonstrates continued attainment/maintenance of the 1997 8-hour ozone NAAQS for ten years from 2008 (the year the Area was effectively designated attainment for the 1997 8-hour ozone NAAQS) as required by the CAA. These projected reductions of ozone precursors indicates continued maintenance of the 1997 8-hour ozone NAAQS.

The revised MVEBs that North Carolina submitted for the Rocky Mount Area were developed with projected mobile source emissions derived using the MOBILE6 motor vehicle emissions model. This model was the most current model available at the time North Carolina was performing its analysis. However, EPA has now issued an updated motor vehicle emissions model known as Motor Vehicle Emission Simulator or MOVES. In its announcement of this model, EPA established a two-year grace period for continued use of MOBILE6.2 in regional emissions analyses for transportation plan and transportation improvement programs (TIPs) conformity determinations (extending to March 2, 2012),³ after which states (other than California) must use MOVES in conformity determinations for TIPs. As stated above,

³ EPA recently extended the grace period to use MOVES for regional emissions analysis in conformity determinations to March 2, 2013 (77FR 11394).

MOBILE6.2 was the applicable mobile source emissions model that was available when the original SIP was submitted. EPA's "Policy Guidance on the Use of MOVES2010 and Subsequent Minor Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes"

(<http://www.epa.gov/otaq/models/moves/documents/420b12010.pdf>) explains that the CAA does not require states that have already submitted SIPs to revise these SIPs simply because a new motor vehicle emissions model is now available. The guidance further states that the use of MOBILE6.2 in an already submitted SIP should not be an obstacle to approval of that SIP assuming that it is otherwise approvable because it would be unreasonable to require revision to a SIP which in this case was submitted prior to the release of MOVES.

III. Final Action

EPA is taking direct final action to approve North Carolina's February 7, 2011, SIP revision to allocate a portion of the available safety margin to the MVEBs for the 1997 8-hour ozone NAAQS for the Rocky Mount, North Carolina Area. The revised MVEBs, for Edgecomb and Nash Counties in North Carolina ensure continued attainment of the 1997 8-hour ozone NAAQS through the maintenance year 2017. EPA has evaluated North Carolina's February 7, 2011, SIP revision, and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy. On March 12, 2008, EPA issued revised ozone NAAQS. The current action, however, is being taken to address requirements under the 1997 8-hour ozone NAAQS.

EPA is publishing this rule without prior proposal because the Agency views this as a non-controversial amendment and anticipates no adverse comments. However, in the proposed

rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should an adverse comment be filed. This rule will be effective on [Insert date 60 days from date of publication] without further notice unless the Agency receives adverse comment by [Insert date 30 days from date of publication]. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised this rule will be effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Intergovernmental relations, Incorporation by reference, Nitrogen dioxides, Reporting and recordkeeping requirements, and Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 11, 2012

A. Stanley Meiburg
Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52--[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. Section 52.1770(e) is amended by adding a new entry at the end of the table for the “MVEB Update for the Redesignation and Maintenance Plan for the Rocky Mount, NC Area for the 1997 8-hour Ozone Standard” to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register citation
**	**	**	*
MVEB Update for the Redesignation and Maintenance Plan for the Rocky Mount, NC Area for the 1997 8-hour Ozone Standard	February 7, 2011	[Insert date 60 days from date of publication of this document in the <u>Federal Register</u>].	[Insert citation of publication]

[FR Doc. 2012-23716 Filed 09/26/2012 at 8:45 am; Publication Date: 09/27/2012]